

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DOMINIQUE SCARDY,)	
)	
Plaintiff,)	
)	
VS.)	No. 2:11-cv-2677-JDT-tmp
)	
SHELBY COUNTY JAIL,)	
)	
Defendant.)	

ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*
AND
ORDER ASSESSING \$350.00 FILING FEE IN ACCORDANCE WITH PLRA

On August 5, 2011, Plaintiff Dominique Scardy, booking number 11116296, who is incarcerated in the Shelby County Justice Center (“Jail”) in Memphis, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983 and a motion to proceed *in forma pauperis*. (Docket Entry 1 & 2.) However, Plaintiff neglected to submit a copy of trust account statement for the last six months.

Thereafter, on August 18, 2011, plaintiff submitted his motion to proceed *in forma pauperis* which included an inmate trust account statement (D.E. 4) in response to a court-order directive (D.E. 3).

Under the Prison Litigation Reform Act of 1995 (“PLRA”), 28 U.S.C. § 1915(a)-(b), a prisoner bringing a civil action must pay the full filing fee of \$350.00 required by 28 U.S.C. § 1914(a). Section 1915(b) merely provides the prisoner the opportunity to make a “down payment” of a partial filing fee and pay the remainder in installments. In this case, Plaintiff has properly completed and submitted an *in forma pauperis* affidavit and a copy of Plaintiff’s

inmate trust account statement. The motion to proceed *in forma pauperis* is GRANTED in accordance with the terms of the PLRA.

Pursuant to 28 U.S.C. § 1915(b)(1), it is ORDERED that Plaintiff cooperate fully with prison officials in carrying out this order. It is further ORDERED that the trust officer at Plaintiff's prison shall calculate a partial initial filing fee equal to twenty percent (20%) of the greater of the average balance in or deposits to Plaintiff's trust account for the six months immediately preceding the completion of the affidavit. When the account contains any funds, the trust officer shall collect them and pay them directly to the Clerk of the Court. If the funds in Plaintiff's account are insufficient to pay the full amount of the initial partial filing fee, the prison official is instructed to withdraw all of the funds in the Plaintiff's account and forward them to the Clerk of the Court.

On each occasion that funds are subsequently credited to Plaintiff's account the prison official shall immediately withdraw those funds and forward them to the Clerk of Court, until the initial filing fee is paid in full.

It is further ORDERED that after the initial partial filing fee is fully paid, the trust officer shall withdraw from Plaintiff's account and pay to the Clerk of this Court monthly payments equal to twenty percent (20%) of all deposits credited to Plaintiff's account during the preceding month, but only when the amount in the account exceeds \$10, until the entire \$350 filing fee is paid.

Each time the trust officer makes a payment to the Court as required by this order, he shall print a copy of the prisoner's account statement showing all activity in the account since the last payment under this order and submit it to the Clerk along with the payment. All

payments and accounts statements shall be sent to:

Clerk, United States District Court, Western District of Tennessee
167 Main St., Rm. 242, Memphis, TN 38103

and shall clearly identify Plaintiff's name and the case number as included on the first page of this order.

If Plaintiff is transferred to a different prison or released, he is ORDERED to notify the Court immediately of his change of address. If still confined, he shall provide the officials at the new facility with a copy of this order. If plaintiff fails to abide by these or any other requirements of this order, the Court may impose appropriate sanctions, up to and including dismissal of this action, without any additional notice or hearing by the Court.

The Clerk shall mail a copy of this order to the prison official in charge of prison trust accounts at the Plaintiff's prison. The Clerk is further ORDERED to forward a copy of this order to the Director of the Jail to ensure that the custodian of Plaintiff's inmate trust account complies with that portion of the PLRA pertaining to the payment of filing fees.

IT IS SO ORDERED.

s/ **James D. Todd**

JAMES D. TODD

UNITED STATES DISTRICT JUDGE